

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Samantha Willets & Dustin Baird,
Appellants,

v.

Union County Board of Review,
Appellee.

ORDER

Docket No. 13-88-0007
Parcel No. 24010-757-008-00

On October 24, 2013, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Appellants Samantha Willets & Dustin Baird were self-represented and submitted evidence in support of their position. Union County Assessor Gene Haner represented the Board of Review at hearing. The Appeal Board now having examined the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

Samantha Willets and Dustin Baird, owners of property located at 1710 West Prairie Street, Creston, Iowa, appeal from the Union County Board of Review decision reassessing their property. According to the property record card, the subject property is a two-story, frame dwelling built in 2001 with 2016 square feet of total living area. The dwelling has a full basement with 857 square feet of finish, a 180 square-foot open porch, 302 square feet of wood deck, and a 672 square-foot, attached garage. The dwelling has a good quality grade (3+00), is listed in normal condition, and is situated on 0.38 acres.

The real estate was classified as residential on the initial assessment of January 1, 2013, and valued at \$217,780, representing \$13,840 in land value and \$203,940 in dwelling value.

Willets and Baird protested to the Board of Review on the ground that the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2). Their petition to the Board of Review sought an assessment of \$197,500. The Board of Review denied the protest.

Willets and Baird then filed their appeal with this Board and claimed the same ground. They assert the actual value of the property is \$197,500, allocated \$12,500 to land value and \$185,000 in dwelling value.

The evidence shows Willets and Baird purchased the property for \$197,500 in early January 2013 (Exhibit 3-B). They entered into the purchase agreement in August 2012 and the closing was set for the end of September (Exhibit 3-A). Since the property had sustained tornado damage, the sale was conditioned on replacement of the roof, all siding and shutters, French doors, deck flashing and window screens before closing. The repairs were not complete by the original closing date and the closing was delayed. The property was vacant during this time. In October, Willets and Baird rented the property until the completion of repairs when the closing could occur.

Willets referenced Iowa Code section 441.21 definition of market value as the fair and reasonable exchange in the year in which the property is listed and valued between a willing buyer and willing seller (Exhibit C). Further, she references the premise that the sale price of the property shall be taken into consideration in arriving at its market value. In her opinion, the purchase price of the subject property, based on these legal concepts, is the most appropriate indication of its fair market value. She believes the cost approach used for assessment purposes, should only be used in the absence of comparable sales.

Julie A. Owen of Rally Appraisal, LLC in West Des Moines, Iowa, completed an appraisal of the subject property (Exhibit 4). In her opinion, the property's fair market value was \$197,500 as of

December 13, 2012, which we find would be indicative of a value for the January 1, 2013, assessment. Owen reports the property was damaged by the 2012 natural disaster. The siding, roof, gutters, and three sliding glass doors were replaced prior to her inspection. She deemed the subject property to be in adequate condition at the time of the appraisal and determined the property value had not declined because of the disaster.

Owen completed the report based on a sales approach using three comparable properties in Creston within one mile of the subject that sold in 2012. She also reviewed two active listing in Creston. Two of the sales and both listings were ranch homes, dissimilar to the two-story design of the subject property. However, Owen commented that property values are wider in range as well as property variations with all architectural styles similar in marketability in this area. In her opinion, all comparable properties were similar in location, view, quality of construction and design appeal. Sale prices ranged from \$182,500 to \$210,000, or \$83.20 per-square-foot to \$122.61 per-square-foot. Owen adjusted for differences between the subject property and the comparable properties for age, condition, basement size, and other amenities. Adjusted sales prices ranged from \$175,675 to \$210,880, or \$82.83 per-square-foot to \$126.12 per-square-foot with a median of \$83.38 per-square-foot. The subject property sold for \$197,500 or \$97.97 per-square-foot, which is within these ranges.

The appraiser reports Willett and Baird were renting the property at the time of her appraisal for owner occupancy. However, Owen noted it is not uncommon when owners relocate for the buyers to rent property prior to closing.

At hearing, Assessor Gene Haner testified he initially believed the Willets/Baird purchase was abnormal because they were tenants at the time of the purchase. He was not informed the purchase agreement was actually entered into well before the rental period, nor did he know that they couldn't close until the tornado repairs were completed. Based on his limited knowledge at the time of the assessment and the Iowa Department of Revenue sales condition guidelines, (Exhibits 6, 7 & 9) which

led him to believe the transaction was abnormal, he disregarded the sale as a reliable indication of value. He testified that there were few comparable sales in the subject's neighborhood with only four sales in the last eight years. Haner testified that if this Board made a reduction in value, it should be made to the improvement value, not the land value. In his opinion, lowering the land value would create inequity in Creston land values.

Reviewing all the evidence, we find the preponderance of the evidence supports Willets and Baird's claim of over-assessment. The best evidence of the subject property's fair market value are the arm's-length purchase price and Owens' appraisal.

Conclusions of Law

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or

comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available to determine market value then “other factors,” such as income and/or cost, may be considered. § 441.21(2). The property’s assessed value shall be one hundred percent of its actual value. § 441.21(1)(a).

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the subject property’s correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995).


It is clear from the wording of section 441.21(1)(b) that a sales price for the subject property in a normal transaction just as a sales price of comparable property is a matter to be considered in arriving at market value but does not conclusively establish that value. *Riley v. Iowa City Board of Review*, 549 N.W.2d 289, 290 (Iowa 1996). We find that Willets and Baird’s purchase was a normal transaction and their sale price, along with Owen’s appraisal, are persuasive evidence of its fair market value. Viewing the evidence as a whole, we determine that the preponderance of the evidence does support Willets and Baird’s claim of over-assessment. Therefore, we modify the property assessment as determined by the Board of Review.

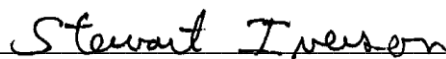
The Appeal Board determines the subject property’s assessment shall be \$197,500, allocated \$13,840 to land value and \$183,660 in improvement value as of January 1, 2013.


THE APPEAL BOARD ORDERS that the 2013 assessment as determined by the Union County Board of Review is modified as set forth herein.

The Secretary of the State of Iowa Property Assessment appeal Board shall mail a copy of this Order to the Union County Auditor and all tax records, assessment books and other records pertaining to the assessment referenced herein on the subject parcel shall be corrected accordingly

Dated this 3rd day of December 2013.


Jacqueline Rypma, Presiding Officer


Stewart Iverson, Board Chair


Karen Oberman, Board Member

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